IV. UNBUNDLED LOCAL TRANSPORT

Q. WHAT HAS BEEN AT&T'S EXPERIENCE WITH RESPECT TO NYT'S PROVISIONING AND MAINTENANCE OF TRANSPORT?

A. As this Commission is well aware, AT&T has had significant problems over the years with NYT's performance in the provisioning and maintenance of transport facilities. According to statistics maintained by AT&T on compliance by the RBOCs with various standard measures of quality, NYT's performance in the provisioning and maintenance of transport facilities, including in particular T1.5 special access circuits, has declined markedly over the last few years. This situation deteriorated to such an extent that AT&T was forced to file a complaint with this Commission, Case 96-C-0572, filed May 22, 1996, documenting the decline in quality and seeking regulatory relief.

Q. HAS NYT'S PERFORMANCE IMPROVED SINCE THE FILING OF THE COMPLAINT?

A. It is my understanding that NYT's performance has not improved since the filing of the complaint.

Q. WHY IS THIS DECLINE IN QUALITY OF SERVICE OF CONCERN?

A. Clearly, if NYT fails to provision or to maintain its facilities properly, AT&T customers making use of those facilities will be subject to provisioning delays and more frequent outages of service. AT&T and its customers are injured as a result of the decline in quality of service from NYT, and AT&T's ability to compete is significantly impaired.

Q. ARE THERE INSTANCES IN WHICH NYT HAS ACTED IN A COMMERCIALLY UNREASONABLE OR ANTICOMPETITIVE MANNER IN THE PROVISIONING OF TRANSPORT FOR AT&T?

A. Yes. For example, NYT has acted in a commercially unreasonable and anticompetitive manner against AT&T in the provisioning of transport facilities in connection with the transfer of DS3 facilities to a competitive access provider ("CAP") over the past two years. In the Spring of 1995, after reaching agreement with the CAP, AT&T requested that NYT move some AT&T traffic from NYT access facilities to the CAP's facilities. This request involved approximately ninety DS3 switched access facilities that connected various NYT central offices to AT&T's POPs. In response to this request, NYT refused to move the AT&T traffic at the DS3 level, but instead insisted that AT&T issue separate access service requests ("ASRs") for each DS0--that is, 672 ASRs per DS3. NYT stated that it could only move the traffic "at the DS1 level" in increments of traffic equivalent to the 24 lines of a DS1 facility.

Q. WHAT WAS THE CONSEQUENCE OF NYT'S REFUSAL TO COMPLY WITH AT&T'S REQUEST?

A. As a result of NYT's action, AT&T has encountered a significant delay in the transfer of its access traffic from NYT to the CAP. AT&T has also incurred greater costs because it has been forced to pay NYT's higher access charges for the substantially longer transition period and failed to receive the benefits of the CAP's lower charges.

Q. DID NYT'S POSITION ON TRANSFERRING THE FACILITIES AT THE DS3 LEVEL EVER CHANGE?

A. After several months, NYT agreed to transfer the traffic at the DS3 level.

Q. DID NYT'S AGREEMENT TO TRANSFER FACILITIES AT THE DS3 LEVEL SPEED THE TRANSITION?

A. No. NYT has been transferring the DS3 facilities at a rate of 1 or 2 DS3 facilities per week, a rate considerably slower than the level of service provided by other LECs. In addition, NYT has treated each central office involved as a separate project, which has required AT&T to negotiate separately with each NYT central office and to incur the additional expense and coordination problems associated with educating personnel at each central office about the details of the transfer.

Q. HAS THE TRANSFER OF THE DS3 FACILITIES BEEN COMPLETED?

A. It is my understanding that NYT still has not completed in almost two years the transfer of DS3 facilities that should have been completed in approximately six months.

Q. HAS NYT DEMONSTRATED THAT IT IS CURRENTLY ABLE TO PROVIDE TRANSPORT IN A COMMERCIALLY REASONABLE AND NONDISCRIMINATORY MANNER?

A. No. As AT&T's experience above shows, NYT's provisioning of transport is not commercially reasonable, and NYT has failed to demonstrate that its provisioning of transport is not discriminatory because it has offered no evidence on the manner in which it provides identical facilities to itself.

V. UNBUNDLED LOCAL SWITCHING

Q. IS NYT OFFERING UNBUNDLED LOCAL SWITCHING IN ACCORDANCE WITH THE ACT?

A. No. On the face of its application, NYT does not claim to be offering unbundled local switching ("ULS"). Instead, NYT states that ULS will be offered by March 1, 1997. But NYT nowhere states -- and did not make any claim in its March 17, 1997 supplemental filing -- that ULS is currently available for purchase from NYT. I have no evidence that ULS is currently available.

Q. HAVE OSS SYSTEMS BEEN ESTABLISHED THAT WOULD PERMIT THE ORDERING OF ULS IN COMPETITIVELY SIGNIFICANT VOLUMES?

A. Not to my knowledge. Even if the ULS element were available from NYT on an unbundled basis, the OSS systems necessary to permit the preordering, ordering and provisioning of ULS have not been demonstrated to AT&T. Without that training, AT&T cannot order the ULS from NYT. AT&T requested such training from NYT in January, and NYT has indicated that it can provide such training in April. Moreover, even if these systems had been demonstrated to AT&T, there is no evidence that AT&T or other CLECs could purchase unbundled local switching elements from NYT in competitively significant volumes.

Q. ARE THERE OTHER PROBLEMS WITH NYT'S ULS OFFERING?

A. Yes. In addition to the OSS problem, there are anticompetitive provisions in NYT's ULS offering.

Q. WHAT ASPECTS OF NYT'S ULS OFFERING ARE ANTICOMPETITIVE?

A. NYT is seeking to charge separately for certain vertical features and functions that are a part of the unbundled local switch. It is my understanding that the ULS element includes all features, functions, and capabilities of the switch. See First Report and Order, ¶ 412. As a result, it is my understanding that NYT may not seek to impose separate charges for vertical features that are already included in the basic ULS offering. Id.

Q. DOES NYT SEEK TO LIMIT THE SERVICES THAT A CLEC MAY OFFER USING THE ULS?

A. Yes. NYT states that "[t]he unbundled switching network element provides electronic access to all features and capabilities of the switch available to NYNEX's end user or retail customers from that switch for the type of port connection (SGAT § 5.6.1.1)." Garzillo, ¶ 31 (emphasis added). See also id. ¶ 32 ("[u]nbundled local switching includes access to all vertical features, and capabilities of the switch available to the port type involved that NYNEX provides to its end user customers . . . "). I understand that the purchaser of the ULS is entitled to all features and functions that the ULS is capable of providing, see First Report and Order, ¶ 412, even if certain of those features and functions are not being offered to the ILEC's retail customers. Such a limitation on the use of the ULS to those switch features offered to NYT retail customers unlawfully

restricts the services that a CLEC may provide to its ULS customers.

Q. IS NYT ABLE TO PROVIDE CUSTOMIZED ROUTING OF OS/DA FOR PURCHASERS OF THE ULS?

A. NYT is not in a position to provide customized routing of OS/DA to AT&T's OS/DA platforms for purchasers of the ULS at this time. Mr. Garzillo states that NYT will provide "unbundled local switching using any technically feasible customized routing by class-of-call (e.g., local, toll, operator services, directory assistance, etc.), including switching custom-routed calls by call type to trunks designated by the requesting carrier (SGAT § 5.6.1.4(A))." Based on my review of the NYT draft Section 271 application and the SGAT, NYT does not currently offer customized routing of OS/DA calls for a CLEC that purchases ULS to route traffic to the CLEC's or third-party OS/DA platforms, and there is no evidence that NYT can provide that capability. Given NYT's long history of missed delivery dates, we will not know that customized routing is actually available until NYT has announced its availability, provided CLECs with relevant metrics, and completed testing of the relevant systems.

VI. INTERIM NUMBER PORTABILITY

Q. HAS NYT BEEN ABLE TO PROVIDE AT&T WITH INTERIM NUMBER PORTABILITY ON REQUEST?

A. No. NYT has been unable to provide AT&T with reasonable access to interim number portability ("INP") for business lines typical of those used by the large business customers for whom AT&T Digital Link service is intended.

Q. WHAT IS AT&T DIGITAL LINK?

A. AT&T Digital Link is a facilities-based local service offer that AT&T plans to make available to large business customers who have private branch exchange ("PBX") equipment and T1.5 access lines from their premises directly to an AT&T point of presence. Although not a broad-based local service offer, AT&T views AT&T Digital Link as an important first step in providing local service to an influential set of customers.

Q. PLEASE EXPLAIN THE RELATIONSHIP BETWEEN AT&T DIGITAL LINK AND INTERIM NUMBER PORTABILITY.

A. For AT&T Digital Link service, AT&T will be using existing Lucent Technologies 4ESS® switches to provide both long distance and local switching. However, in order for customers to use AT&T Digital Link as a more complete local service, they need both outbound and inbound calling capabilities. Interim number portability is necessary so that these customers can retain their current telephone number to place and receive incoming calls when they change their local service provider from NYT to AT&T.

Q. IS NUMBER PORTABILITY IMPORTANT TO THESE CUSTOMERS?

A. Yes, very. These customers would be substantially less likely to change local service providers if they had to change their telephone numbers in order to switch carriers, because

changing telephone numbers would require them to notify numerous internal and external business contacts of the change.

Q. WHAT TYPE OF INTERIM NUMBER PORTABILITY IS NECESSARY FOR AT&T DIGITAL LINK SERVICE?

A. AT&T Digital Link service requires the route indexing option which NYT publicly stated was available at a CLEC conference held in Rye, New York on October 2-3, 1996.

Q. DID AT&T ATTEMPT TO WORK WITH NYT PRIOR TO ITS REQUEST FOR INTERIM NUMBER PORTABILITY FOR AT&T DIGITAL LINK?

A. Yes. Because of the importance of the offer to a key customer segment, we started planning meetings with NYT in the early fall of 1996. I was AT&T's lead negotiator with NYT regarding these matters.

Our first meeting on this subject was held with NYT on September 27, 1996. Before this meeting, AT&T seriously considered how much detail it should provide to NYT regarding its plans for AT&T Digital Link, because Digital Link is a competitive offer aimed at many of the largest business customers. Nevertheless, because of the importance of the offer, at our first meeting, we not only provided NYT with information about the technical aspects of our AT&T Digital Link service, we also informed them about AT&T's market entry plans. This included information about our planned controlled entry date of January 1997 and AT&T's trunking plan to support testing and initial service introduction. The trunking plan AT&T presented was based on the route indexing solution for

INP. NYT's representatives agreed this was appropriate for what AT&T described.

Q. WHAT WAS NYT'S RESPONSE?

A. The NYT representatives immediately expressed technical concerns about AT&T's proposal. Specifically, they stated that they did not believe their Nortel-manufactured switches could accommodate the fact that AT&T's 4ESS switch would be used as both a long distance and a local switch.

The problem NYT cited was based on the fact that AT&T's switch would have two Common Language Location Identifier ("CLLI") codes associated with it (one for its current function as a long distance switch, and another for its functions as a local switch), but it would have only one signaling point code identifying its location (the "2 CLLI code issue"). The AT&T technical representatives at the meeting responded that AT&T did not believe this would be a problem, but we urged the NYT representatives to contact Nortel for a definitive answer.

Q. DID NYT OBTAIN A PROMPT ANSWER FROM NORTEL?

A. No. Instead of resolving the initial issue, NYT's representatives continued to raise other technical issues which proved to be insubstantial. These issues included: (1) whether NYT's tandem switches could handle the 2 CLLI code issue and (2) whether its signaling equipment could handle this situation. In addition, NYT identified similar problems with its TIRKS and CABS systems, which it was able to resolve with reasonable dispatch.

NYT's LATA 132 network uses Lucent tandem switches (4ESS) with which we were very familiar. Therefore, we informed NYT immediately that Lucent equipment would not be affected by the 2 CLLI code problem. Shortly thereafter, we identified for NYT the 4ESS generic software release in which this issue was addressed.

In addition, NYT uses Nortel STPs in LATA 132. When NYT raised concerns about the Nortel STPs, we stated that the 2 CLLI code issue was not, in our experience, a problem for Lucent STPs, and we did not believe that it would be a problem for the Nortel equipment. We again urged NYT to contact Nortel to verify this would not be a problem.

Q. WHAT OTHER STEPS DID AT&T TAKE TO ASSURE TIMELY IMPLEMENTATION OF ITS PLANS TO OFFER DIGITAL LINK SERVICE?

A. On October 25, 1996 AT&T issued orders to NYT for the interconnection trunks that are necessary to provide the service. As discussed below, however, NYT did not issue all of the orders necessary to establish interconnection.

Q. HOW LONG DID IT TAKE TO RESOLVE THE TECHNICAL ISSUES RAISED BY NYT?

A. We met, either by phone or in person, on many occasions. On December 3, AT&T and NYT's technical representatives worked to resolve NYT's concerns about the Nortel STP. At that meeting, I also asked NYT's representatives whether they had contacted Nortel to inquire about their concern regarding the Nortel local switch. NYT's representatives replied that they had placed calls to Nortel, but had not received a response.

Accordingly, I stated that, because time was growing short to meet AT&T's planned service availability date, AT&T would have to begin placing orders whether or not NYT's concerns were resolved.

The next day, NYT informed me that it had resolved its concerns regarding the Nortel switch. When I asked how NYT had accomplished this, NYT's representative stated that a NYT employee responsible for provisioning had been asked to build the necessary translations to use 2 CLLI codes with the same signaling point code, and that employee had reported it was possible to do so. This demonstrates that NYT's concerns regarding the Nortel equipment could have been resolved in a matter of hours, not the months that it had taken.

Q. WHAT HAPPENED NEXT?

A. During meetings held on December 12, we agreed with NYT that AT&T would send an order to NYT requesting interim number portability for a line at AT&T's office at 32 Avenue of the Americas. NYT agreed that, upon receipt of this order, it would start its internal process to port the number and to establish the necessary route indexing trunk ("INP-T") group. AT&T sent its order to NYT on December 17.

Q. DID NYT ACCEPT THE INP ORDER AS PLANNED?

A. No. Despite all of our planning, a few days later AT&T was informed that its INP order was rejected by NYT. In addition, NYT did not issue its order for INP-T trunks on that date.

Q. WHY DID NYT REJECT AT&T'S ORDER?

A. A few days later, a NYT representative informed AT&T's ordering center that the order could not be accepted because AT&T had requested number portability for only a single number within an existing DID block.

Q. DOES NYT'S TARIFF REQUIRE THAT A CLEC REQUESTING INTERIM NUMBER PORTABILITY MUST REQUEST INP FOR ALL OF THE NUMBERS IN A DID BLOCK?

A. No. Moreover, NYT never discussed such a requirement in all of our prior discussions over the preceding months.

Q. DID NYT OFFER ANY TECHNICAL EXPLANATION AS TO WHY IT COULD NOT PROVIDE INTERIM NUMBER PORTABILITY FOR A SINGLE NUMBER IN A DID BLOCK?

A. No. NYT offered no technical reason why this could not be done. Rather, when I inquired about this issue during our escalation process in early January, I was informed that this was an administrative matter which required NYT to change its existing practices and that NYT did not intend to make such changes.

Q. ARE YOU AWARE OF ANY REASON WHY SUBDIVISION OF THE NUMBERS IN A DID BLOCK WOULD BE TECHNICALLY INFEASIBLE?

A. No. My understanding is that this is simply an administrative task that NYT chooses not to perform.

Q. WHAT DID AT&T DO AFTER THE INP ORDER WAS REJECTED?

A. AT&T escalated its dual concerns to higher levels of management in NYT. AT&T's first concern was that its order had been rejected, and its second concern was NYT's continuing delay in issuing an INP-T order for the necessary trunks. As

of January 10, 1997, AT&T's order for INP still had not been accepted and NYT's process required an accepted INP order before it would issue its INP-T order to AT&T. I urged NYT to issue its INP-T order so that the necessary trunks would be in place while NYT resolved its internal problems relating to AT&T's INP order. The NYT representative I spoke with indicated that this would be acceptable.

When NYT had not issued its INP-T order by January 22, I then escalated the issue to Mr. Patrick Garzillo. He told me that he would try to assist us in resolving the problems, but that the NYT personnel responsible for the operations issues relating to these problems were in another NYT organization.

When NYT continued not to issue its INP-T order by January 27, I called Mr. John Griffin, NYT Vice President & General Manager, who is responsible for NYT's operations group. After a second call to Mr. Griffin on January 21 by my supervisor, Ms. Sandy Kale, Mr. Griffin reported that his group would issue an INP-T order as had been agreed in December. However, when NYT issued the order, it was only for a single channel, not for a full DS-1 trunk, as had been agreed.

Upon receipt of this order, AT&T complained that NYT had not fulfilled its earlier commitment, and AT&T regulatory personnel discussed this matter with counterparts at NYT in order to avoid the need for a complaint to the Commission. On February 14, NYT finally issued a verbal order which increased its INP-T order to include all 24 channels of the DS-1 trunk

for the INP-T group. NYT finally turned up the trunks for service on March 20, but because of the problem concerning DID blocks, AT&T still cannot port a line.

In the interim, a conference call had been scheduled for January 30 to address NYT's methods and procedures relating to the overall project, but on January 29 NYT canceled the call. The day before, NYT also canceled a training session in which AT&T personnel were to be instructed on how to place electronic orders for, inter alia, INP using NYT's Web/GUI.

Q. WHAT IS THE EFFECT OF NYT'S REQUIREMENT THAT INTERIM NUMBER PORTABILITY BE APPLIED TO ENTIRE DID BLOCKS?

A. NYT's position has a major dampening effect on customers' willingness to use AT&T Digital Link service. We expect that customers who use this service will first try it out on a limited number of lines, e.g., the lines for fax machines or for certain non-critical organizations within the business. Thus, it is important that AT&T be able to offer AT&T Digital Link service, including inbound capabilities, on the exact lines the customer wishes to convert. Moreover, if the experience at AT&T's New York office is typical, customers often do not know which lines are included in a DID block, and even if they do, they have not assigned the telephone numbers in such blocks based on the types of activities they are used to perform. Thus, fax lines could be grouped with telephone numbers for personnel in critical functions, or the telephone numbers of personnel in critical functions may be included in the same DID blocks as individuals performing non-critical

functions, or both. Accordingly, any requirement that a CLEC request interim number portability for all numbers in a DID block creates a major obstacle to AT&T's efforts to sell its Digital Link service. This limitation will also affect other efforts to sell AT&T facilities-based local services to business customers.

Q. HAS NYT COMPLETED AT&T'S INITIAL ORDER FOR INTERIM NUMBER PORTABILITY?

A. No. On March 12, I was told by NYT's regulatory organization that AT&T should re-submit its INP order to NYT. Accordingly, AT&T re-submitted its order for INP on three lines at 32 Avenue if the Americas that day. As of March 28, AT&T has not received a Firm Order Confirmation from NYT, confirming that the order is scheduled for completion as requested.

Accordingly, AT&T's ordering personnel called NYT to determine the status of the order. They were informed that NYT's ordering center had not acted on the order because they had not received internal instructions on how to process it.

Q. HOW MUCH TIME HAS ELAPSED SINCE AT&T ORDERED INTERIM NUMBER PORTABILITY?

A. Three months and 11 days.

Q. DOES NYT'S PROPOSED IMPLEMENTATION OF THE AT&T DIGITAL LINK SERVICE POSE OTHER DIFFICULTIES FOR AT&T?

A. Yes, in two important respects. First, NYT has indicated that it will not begin the process for INP-T trunks necessary for AT&T Digital Link service until after it has accepted

orders for interim number portability and the number of orders exceeds an NYT-determined threshold. This will cause unreasonable provisioning delays or force AT&T to use a less desirable solution for interim number portability. Second, NYT has refused to allow AT&T to use NYT tandems to provision AT&T Digital Link service, which requires AT&T and NYT to provide this service using a less efficient trunking plan.

Q. HOW DOES NYT'S PROPOSED PROCESS FOR ORDERING INTERCONNECTION TRUNKS AFFECT AT&T'S PROVISIONING OF AT&T DIGITAL LINK SERVICE?

A. AT&T wants to be ready to provision its Digital Link service as soon as possible after a customer orders the service. Thus, AT&T wants to be able to establish interconnection with NYT prior to making actual sales of AT&T Digital Link service to end users. NYT, however, has indicated that it will not begin the process for the INP-T trunks that are necessary to provide AT&T Digital Link service until after it accepts orders for interim number portability. Based on my understanding of NYT's proposed installation schedules, in a start-up location, this could add up to 4 additional weeks to the time it will take to provide AT&T Digital Link service to business customers in New York.

Q. WHAT IS THE EFFECT OF NYT'S REFUSAL TO ALLOW AT&T TO USE ITS TANDEMS FOR AT&T DIGITAL LINK SERVICE?

A. NYT's refusal will cause AT&T to incur significant additional expense, because it requires AT&T to design and construct an inefficient network. AT&T's proposed network to

support its initial requirements for AT&T Digital Link service in LATA 132 contemplated use of NYT's tandem switches and required a total of 18 trunk groups and 80 T1.5 circuits. NYT, however, has refused AT&T's technically feasible request to use its tandems. This refusal will require AT&T to establish 54 trunk groups and to use 143 T1.5 circuits to provide the same services.

Given the statements in the affidavit of Mr. Joseph Gansert, NYT's refusal to allow AT&T to establish an efficient network for AT&T Digital Link service is particularly ironic. Mr. Gansert's affidavit (p. 10) discusses tandem architecture and shows how efficient use of tandems can "reduce[] the number of trunk groups" needed to create a network and enable a carrier to have "larger and more efficient trunk groups." NYT's refusal to permit AT&T to have access to NYT tandems is thus clearly contrary to principles of sound network architecture.

Q. DID NYT ASSERT THAT AT&T'S USE OF ITS TANDEMS WOULD BE TECHNICALLY INFEASIBLE?

A. No. However, NYT asserted that it had "capacity concerns" related to AT&T's request. However, they have provided no detail regarding capacity constraints at any of the tandems that AT&T specifically identified in its initial trunking plan, which was given to NYT nearly six months ago.

VII. ACCESS TO SIGNALING AND DATABASES

A. General Procedures and TCAP Messages

Q. HAS NYT FULLY IMPLEMENTED NON-DISCRIMINATORY ACCESS TO SIGNALING AND DATABASES?

A. No. NYT has no reliable system or procedure for providing access to databases and associated signaling.

Q. CAN YOU GIVE EXAMPLES OF HOW NYT HAS NOT ESTABLISHED PROCEDURES FOR PROVIDING ACCESS TO SIGNALING?

A. Yes. There is still substantial uncertainty about NYT's ability to exchange Transaction Capabilities Application Part messages (or "TCAP" messages). Although AT&T and NYT recently completed a successful first test of such exchanges, AT&T's experience with NYT regarding TCAP is illustrative of how the lack of reliable procedures results in unpredictability and delay.

Q. WHAT ARE TCAP MESSAGES?

A. TCAP messages are signaling messages that are used for queries to end offices or databases and are necessary to provide certain features. TCAP messages are necessary to provide particular advanced services that AT&T would want to offer as a local exchange carrier, such as auto call back, auto call return, and screening list editing.

Q. WHAT HAS BEEN AT&T'S EXPERIENCE WITH NYT IN TRYING TO EXCHANGE TCAP MESSAGES?

A. AT&T first requested the ability to exchange TCAP messages with NYT in December 1995. In response, NYT

originally took the position that it would not pass TCAP messages between its network and CLECs' networks. AT&T complained to the NYPSC, however, and in discussions with the NYPSC staff, the staff made clear to NYT that, unless it could show that passing such messages was not technically feasible, NYT would be required to exchange TCAP messages with AT&T. NYT then agreed to exchange TCAP messages.

AT&T tested its signaling systems in conjunction with the local services trial in September 1996. AT&T was unable to exchange TCAP messages with NYT. AT&T could not trace the problem to any breakdown within the AT&T system, and therefore concluded that NYT was still blocking TCAP messages.

When AT&T brought this to NYT's attention, NYT conceded that it was blocking the messages, because AT&T was not "certified" (by NYT) to pass TCAP messages between its network and NYT's. NYT had never previously informed AT&T of NYT's "requirement" that AT&T become "certified."

Nonetheless, AT&T asked NYT in September 1996 what it needed to do to become "certified." NYT first told AT&T it would have to take a number and get in line, because NYT could only certify one carrier at a time (even though AT&T had requested the ability to pass TCAP messages a year earlier). NYT also told AT&T that it would have to conduct certain tests, and AT&T asked NYT to produce test scripts, so that AT&T could confirm the tests with NYT. But NYT did not produce the test scripts until several weeks later, and what

NYT did produce were photocopies of materials dated March 1996.

Finally, in November 1996, NYT "certified" AT&T as a carrier with whom it could exchange TCAP messages. Certification in hand, AT&T conducted tests in December 1996. But the messages *still* failed. After extended discussions between AT&T and NYT, NYT finally determined that it had failed to load AT&T's point codes in all of NYT's end office switches.[1]

AT&T asked NYT to load the point codes in at least one switch so that AT&T could test its systems. In February 1997 -- fourteen months after the NYPSC staff directed NYT to exchange TCAP messages with AT&T and NYT agreed to do so -- AT&T finally successfully exchanged TCAP messages with NYT in the switch AT&T has deployed. I have never received any indication, however, that NYT has loaded AT&T's point codes into all of its switches, so that AT&T could pass messages with any of NYT's switches in New York.

Q. IS AT&T CONFIDENT NOW THAT NYT WILL RELIABLY PROVIDE THE ABILITY TO EXCHANGE TCAP MESSAGES?

A. No. NYT's procedures for implementing access to full signaling remain unacceptable. If AT&T deploys another switch, it will have to go through this whole haphazard "procedure" again with NYT. Many aspects of this "procedure"

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[1] Because TCAP messages facilitate functions that occur in the terminating end office, NYNEX must load AT&T's point codes in all of NYNEX's end offices for the exchange of TCAP messages to be effective.

remain undefined: for example, it is unclear whether NYT will insist on a new "certification" for additional switches. Moreover, in NYT's SGAT, it has reserved the right to determine generally whatever "certification" is necessary (SGAT § 5.7.2(B)(2)).

Also, for each new switch AT&T deploys, NYT will have to load point codes for AT&T into all of its switches again. NYT has made no commitments regarding the timing for such a process in the future. Equally important, NYT has never established any procedures that clearly define for AT&T how the extensive information that is necessary to make the passing of messages work can be exchanged between the two companies.

Q. DO YOU HAVE ANY OTHER CONCERNS WITH RESPECT TO NYT'S ABILITY OFFER NONDISCRIMINATORY ACCESS TO SIGNALING?

A. Yes. In its SGAT, NYT indicates that all requests for SS7 interconnection for new installation and for modification of existing installation must be referred to the NYT account manager. But NYT has never indicated what information a request given to the account manager should contain, or the intervals in which AT&T could expect a turnaround. Without those kinds of procedures, the account manager simply becomes a bottleneck in the process, and the "procedures" become ad hoc and unpredictable.

B. AIN

Q. WHAT IS AIN AND WHAT IS ITS ROLE IN THE NETWORK?

A. The development of new services traditionally rested with switch vendors. AIN is a network architecture that permits the development of new services independently of switch vendors. The AIN architecture allows service providers to develop software-based programs and services outside the switch and is thus a flexible means of providing new services to meet customer needs.

The AIN architecture relies on centralized data bases, known as service control points ("SCPs"), that provide service logic, information and instructions on the routing and handling of a telephone call. An end-office switch may contain a software "trigger" that prompts a query via the SS7 network to the SCP to obtain information before further processing of the call. Other AIN elements include the service creation environment ("SCE"), which is used to develop and test AIN services and the service management system ("SMS"), which is used to update or alter information contained within the SCP data bases.

Q. WHY IS AIN IMPORTANT?

A. AIN is important because it enables carriers to offer new and innovative services that can be made available to the public generally or can be tailored to meet the needs of specific customers. As a result, new competitors need to be able to access an ILEC's AIN capabilities so they can provide currently available services to end users and develop their own new AIN service offerings. Impediments that restrict new entrants' ability to offer and to develop AIN functionalities

will seriously impair new entrants' ability to compete with an ILEC.

Q. WHAT ARE THE REQUIREMENTS WITH RESPECT TO AIN UNDER THE ACT AND THE FCC'S REGULATIONS?

A. The FCC recognized that access to AIN is crucial to enable new competitive local exchange carriers to compete effectively with ILECs, because AIN offers carriers the opportunity to provide end users with sophisticated service and call options. Accordingly, the Commission required ILECs to make their AIN services available to requesting carriers in three distinct circumstances (First Report and Order, ¶¶ 486-87, 496).

First, an ILEC must allow requesting carriers access to the ILEC's SCE and SMS to permit the new entrants to create new AIN services in the ILEC's AIN elements ("AIN Service Development"). State commissions were authorized to resolve the terms and conditions under which requesting carriers may obtain nondiscriminatory access to the SMS and SCE.

Second, a CLEC must be permitted to obtain existing ILEC AIN functionalities ("Purchase of AIN Functionalities"). Such access permits a CLEC to use the ILEC's SCP in the same manner as the ILEC and thus offer all the AIN functionalities that are available from the ILEC's switch.

Finally, a CLEC that uses its own switch may access the ILEC's signaling system and use the ILEC's AIN services ("AIN Switch Access"). The FCC authorized state commissions to

resolve the issue of possible mediation requirements governing a CLEC's access to the ILEC's SCP.

Q. HAS NYT PROVIDED ACCESS TO ITS AIN DATA BASES ON A NONDISCRIMINATORY BASIS?

A. NYT has stated that requesting carriers will have access to its AIN data bases and that CLECs will be able to use NYT's AIN data bases on the same terms and conditions as NYT. Butler, ¶ 98; SGAT, § 5.7.6. Despite these general promises, however, NYT has not published information on the electronic interfaces necessary to support these options, nor has it developed an ordering processes and other supporting documentation that are needed to enable a carrier to order NYT's AIN services. In addition, NYT has no written procedures for testing feature interaction, and no established certification program for testing carriers, proposals to access the NYT AIN call-related data bases. In the absence of any infrastructure to support CLECs' development of AIN services, NYT has provided no basis for evaluating its bare promises to provide nondiscriminatory access to AIN.

Q. HAS NYT MADE AVAILABLE THE INFORMATION CARRIERS NEED TO OBTAIN AIN SERVICES FROM NYT?

A. No. NYT indicates that it will make AIN services available to third parties, but it has not published any listing of the service applications (with corresponding service descriptions) that are resident in its AIN SCP. NYT has failed to provide ordering processes and supporting documentation or rates associated with CLECs' access to those

applications. Without such information, NYT cannot claim that it has offered AIN services to requesting carriers, as it is required to do under the 1996 Act.

Q. WHAT STEPS MUST NYT TAKE TO PROVIDE CLECs ACCESS TO ITS AIN DATA BASES?

A. The unbundling requirements of the Federal Act require NYT to develop and publicize the procedures and interfaces CLECs need in order to access its AIN data bases. In order for NYT to meet the minimum requirements for the three types of AIN access mandated by the FCC, it must at least complete the following types of activities.

AIN Service Development - In order to enable CLECs to use NYT's SCE to build their own AIN services, NYT must provide CLECs with a secure dial-up interface to the SCE. Alternatively, NYT must develop and publish procedures that permit CLECs to physically access its SCE systems. In addition, NYT must negotiate an agreement with the CLEC governing service development tools, e.g., an agreement that defines a TCAP message set and associated parameters for AIN services the CLEC develops. NYT must also negotiate procedures that govern the laboratory and field testing environment for joint testing and certification of the CLEC's AIN services, including the test criteria, expected test performance outcome, interval for retest (if required), feature interaction test procedures, and mechanisms for resolution of disputes if NYT and the CLEC disagree as to the technical feasibility of the CLEC's service.